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SIPDIS

USDOC FOR ITA/MAC/EUR/DAS/ERIC STEWART
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SUBJECT: DEPUTY ASSISTANT SECRETARY FOR EUROPEAN AFFAIRS
ERIC STEWART'S MEETINGS WITH GOVERNMENT OF TURKEY
OFFICIALS ON SEPTEMBER 9 AND 10, 2004.

11. THIS CABLE IS SENSITIVE BUT UNCLASSIFIED. NOT INTENDED FOR INTERNET DISTRIBUTION
12. (SBU) SUMMARY: ON SEPTEMBER 9 AND 10, DEPUTY ASSISTANT SECRETARY FOR EUROPE ERIC STEWART TRAVELED TO ANKARA TO MEET WITH GOVERNMENT OF TURKEY OFFICIALS ON KEY BILATERAL ISSUES. THE DAS MET WITH OFFICIALS FROM THE MINISTRIES OF HEALTH, AGRICULTURE, JUSTICE, ENERGY, AND UNDERSECRETARIATS FOR FOREIGN TRADE, TREASURY, AND EU AFFAIRS. BILATERAL ISSUES RAISED INCLUDED PHARMACEUTICALS AND INTELLECTUAL PROPERTY RIGHTS PROTECTION, ENERGY INVESTMENT DISPUTES, AGRI-BUSINESS TRADE ISSUES, AND FAILURE TO ENFORCE INTERNATIONAL ARBITRAL AWARDS. WHILE IN TURKEY, HE ALSO MET WITH THE PHARMACEUTICALS LOCAL ACTION WORKING GROUP, LED A ROUNDTABLE DISCUSSION WITH THE AMERICAN BUSINESS FORUM, AND MET WITH REPRESENTATIVES OF CARGILL AND ADM ON AGRI-BUSINESS ISSUES. THE DAS LED A VIDEOCONFERENCE ON IRAQ RECONSTRUCTION AND HELD A PRESS CONFERENCE WITH TWENTY-FIVE MEMBERS OF THE MEDIA (INCLUDING PRINT AND T.V.). THE DAS WAS ACCOMPANIED BY DESK OFFICER DAVID DE FALCO. END SUMMARY.
13. (SBU) MEETING AT THE UNDERSECRETARIAT FOR FOREIGN TRADE WITH DEPUTY UNDER SECRETARY GUZEL: DAS STEWART THANKED THE GOT FOR ITS SUPPORT AGAINST THE WAR ON TERROR, INCLUDING RECONSTRUCTION EFFORTS. HE ALSO HIGHLIGHTED TURKEY'S IMPORTANCE AS A KEY-TRADING ALLY, DUE TO ITS GEOGRAPHIC LOCATION AND DEMOGRAPHICS. IN 2003, THE UNITED STATES EXPORTED OVER \$2.9 BILLION TO TURKEY AND IMPORTED \$3.7 BILLION, AND U.S. COMPANIES HAVE INVESTED APPROXIMATELY \$2 BILLION IN TURKEY (2003 HISTORICAL COST FIGURES).
14. (SBU) DAS STEWART URGED TURKEY TO TAKE STEPS TO IMPROVE ITS INVESTMENT CLIMATE TO ATTRACT FOREIGN CAPITAL. AS TRADE TENDS TO FOLLOW INVESTMENT, A STRONGER TURKISH INVESTMENT CLIMATE WILL HELP INCREASE TRADE VOLUMES.
15. (SBU) DAS STEWART RAISED USG CONCERN ABOUT THE GOT'S DECISION TO WAIT UNTIL DECEMBER 31, 2007, TO PROTECT CONFIDENTIAL TEST DATA. TURKEY IS NOT IN COMPLIANCE WITH ITS TRIPS OBLIGATIONS - PROTECTION IN THIS AREA SHOULD HAVE COMMENCED IN 2000. LACK OF PROTECTION FOR CONFIDENTIAL TEST DATA THREATENS THE COMMERCIAL POSITION OF SEVERAL U.S. FIRMS AND WILL HINDER CURRENT AND FUTURE INVESTMENT IN THE TURKISH MARKET. ADDITIONALLY, HE ASKED THAT TURKEY CEASE APPROVING ANY COPIES OF PATENTED PRODUCTS. DAS STEWART ASKED THAT THE GOT ESTABLISH AN INTER-MINISTERIAL WORKING GROUP TO DISCUSS THESE ISSUES WITH INNOVATIVE PHARMACEUTICAL PRODUCERS.
16. (SBU) DAS STEWART ENCOURAGED TURKEY TO STEP UP ENFORCEMENT MEASURES TO ADDRESS PRODUCTION OF COUNTERFEIT TRADEMARKED AND PIRATED COPYRIGHTED WORKS SUCH AS APPAREL, OPTICAL MEDIA, AND BOOKS.
17. (SBU) ON ENERGY INVESTMENT, WE EXPECT THE GOT TO RESPECT ITS OBLIGATIONS UNDER THE INTERNATIONALLY BINDING CONTRACTUAL AGREEMENTS WITH INDEPENDENT POWER PRODUCERS. HE ENCOURAGED THE GOT TO RESOLVE ANY OUTSTANDING DISPUTES THROUGH DIALOGUE AND REFRAIN FROM TAKING EXTRA JUDICIAL STEPS SUCH AS UNILATERAL CANCELLATION OF BOT CONTRACTS. ADDITIONALLY, HONORING THE EXCHANGE RATE GUARANTEE FOR EXISTING REGISTERED CAPITAL INVESTMENTS IS NON-NEGOTIABLE FOR FOREIGN OIL AND GAS COMPANIES.
18. (SBU) THE DAS NOTED HIS PLEASURE WITH THE PASSAGE OF AMENDMENTS TO THE ZONING LAW THAT ALLOW CARGILL TO OPERATE ITS FACILITY FREE OF LEGAL ENCUMBRANCES. HE DID, HOWEVER, NOTE THAT THE SUGAR LAW, WHICH PLACES A

QUOTA ON THE PRODUCTION OF CORN SYRUP, WILL FORCE U.S. COMPANIES TO REEVALUATE THEIR \$170 MILLION WORTH OF INVESTMENTS. HE ASKED THAT THE GOT FIND A WAY TO ACCOMMODATE THE CONCERNS OF THE HIGH-FRUCTOSE CORN SYRUP INDUSTRY.

¶19. (SBU) THE DAS RAISED CONCERNS IN THE DISTILLED SPIRITS INDUSTRY OVER THE ESTABLISHMENT OF AN IMPORT REGIME THAT IS NON- TRANSPARENT AND THE IMPLEMENTATION OF NEW STANDARDS REGARDING SUPERIOR ALCOHOLS.

¶10. (SBU) THE DAS APPLAUDED TURKEY FOR ADOPTING THE EU NEW APPROACH DIRECTIVES AND BELIEVES THAT MEETING EUROPEAN AND INTERNATIONAL STANDARDS DOES AFFORD GREATER CONSUMER, WORKER, AND ENVIRONMENTAL PROTECTION. HOWEVER, HE NOTED INCONSISTENCY WITH THE IMPLEMENTATION OF THE DIRECTIVES IN TURKEY. SPECIFICALLY, THE TURKISH CUSTOMS SERVICE IS CLEARING CE-MARKED PRODUCTS ORIGINATING IN THE EU AND DELAYING THE ENTRY OF CE-MARKED PRODUCTS FROM COUNTRIES OUTSIDE THE EU.

¶11. (SBU) THE DAS CONCLUDED HIS REMARKS BY ASKING THE UNDERSECRETARIAT FOR SUPPORT IN RESOLVING THESE TRADE AND INVESTMENT ISSUES. HE ASKED THAT THE DEPUTY UNDER SECRETARY JOIN HIM IN A DIALOGUE AIMED AT MOVING THESE ISSUES THROUGH THE VARIOUS LINE MINISTRIES.

¶12. (SBU) DEPUTY UNDER SECRETARY GUZEL AGREED THAT IN ORDER TO ATTRACT FURTHER INVESTMENT TO TURKEY MANY OF THE OUTSTANDING DISPUTES WOULD HAVE TO BE RESOLVED. SHE WAS FAMILIAR WITH MANY OF THE MATTERS LISTED AND UNDERSTOOD THE NEED TO WORK WITH INDUSTRY AND THE USG TO ADDRESS THEM. SHE ALSO AGREED TO PARTICIPATE IN ANY INTER-MINISTERIAL DIALOGUE WITH INNOVATIVE PHARMACEUTICALS PRODUCERS ON PHARMACEUTICALS ISSUES. THE DEPUTY UNDER SECRETARY AGREED TO CONTINUE THIS EXCHANGE WITH THE DAS AND TO WORK WITH THE LINE MINISTRIES TO RESOLVE OUTSTANDING ISSUES.

¶13. (SBU) MEETING AT THE MINISTRY OF HEALTH WITH DIRECTOR GENERAL GUMRUKCUOGLU: THE DAS RAISED USG CONCERNS OVER THE LACK OF DATA EXCLUSIVITY AND IMPLEMENTATION OF A NEW REIMBURSEMENT REGIME THAT MAY INCLUDE THE CREATION OF A POSITIVE LIST. THE DAS URGED THE MOH TO PARTICIPATE IN AN INTER-MINISTERIAL DIALOGUE WITH INDUSTRY OVER THE CREATION OF A NEW REIMBURSEMENT REGIME IN TURKEY.

¶14. (SBU) THE DIRECTOR GENERAL ACKNOWLEDGED DIFFICULTIES WITH THE IMPLEMENTATION OF DATA EXCLUSIVITY, BUT ASSURED US THAT THE LAW HAD BEEN DRAFTED AND THAT IT WOULD BE IMPLEMENTED BY THE DECEMBER 2007 DATE. HE HIGHLIGHTED THE COST OF IMPLEMENTATION AS A MAJOR FACTOR FOR THE DELAY. HE NOTED THAT THE POSITIVE LIST HAD NOT BEEN ESTABLISHED YET AND THAT IT WAS NOT THE MOH'S INTENTION TO DISCOURAGE IMPORTS WITH THE CREATION OF SUCH A LIST. HE PROMISED TO WORK WITH INDUSTRY OVER THE DEVELOPMENT OF NEW REIMBURSEMENT POLICIES AND AGREED TO PARTICIPATE IN ANY INTER-MINISTERIAL DISCUSSIONS HELD WITH INNOVATIVE PRODUCERS OVER THE ESTABLISHMENT OF SUCH POLICIES.

¶15. (SBU) MEETING AT THE UNDERSECRETARIAT OF TREASURY WITH UNDER SECRETARY CANAKCI: DAS STEWART HIGHLIGHTED TURKEY'S NEED TO CREATE AN ENVIRONMENT FRIENDLY TO FOREIGN INVESTMENT IF IT WISHES TO ATTRACT CAPITAL. TURKEY HAS TAKEN A NUMBER OF STEPS, WHICH SERVE TO CREATE UNCERTAINTY IN THE MARKET. THESE INCLUDE, AN INABILITY TO RESOLVE OUTSTANDING ENERGY CONTRACTS AND THE REFUSAL TO HONOR THE EXCHANGE RATE GUARANTEE FOR EXISTING ENERGY INVESTMENTS. HE ENCOURAGED THE GOT TO OPEN A DIALOGUE WITH FOREIGN INVESTORS TO CLARIFY THE STATUS OF PROJECTS.

¶16. (SBU) THE UNDER SECRETARY SHARED THE DAS' CONCERNS AND UNDERSTOOD THE NEED TO CREATE AN ENVIRONMENT THAT WILL ATTRACT NEEDED INVESTMENT. THE UNDER SECRETARY NOTED THAT ENERGY PROJECTS (ESPECIALLY THE HYDRO-POWER PROJECTS) HAD RUN INTO FINANCING ISSUES BECAUSE OF THE IMF REQUIREMENT THAT TURKEY CUT ITS PRIMARY SURPLUS TO 6.5 PERCENT OF GDP. HE ASSURED US THAT THE GOT WAS WORKING ON A SOLUTION FOR THE EXCHANGE RATE GUARANTEE. HE ASKED THAT THE DAS PASS ALONG A LIST OF PROBLEM ENERGY PROJECTS AND HE WOULD DO WHAT HE COULD TO WORK WITH THE MINISTRY OF ENERGY AND NATURAL RESOURCES AND INDUSTRY TO DISCUSS NEXT STEPS.

¶17. (SBU) MEETING AT MINISTRY OF AGRICULTURE WITH UNDER SECRETARY CAGIL: DAS STEWART RAISED USG CONCERNS OVER THE MANY STEPS TAKEN BY THE GOT THAT LIMIT ACCESS FOR U.S. EXPORTERS. THEY INCLUDE: AN ONEROUS, NON-TRANSPARENT LICENSING REGIME FOR DISTILLED SPIRITS; HIGH AD VALOREM TAXES AND A SUPERIOR ALCOHOL STANDARD FOR DISTILLED SPIRITS; A SUGAR QUOTA THAT CAPS CAPACITY OF U.S. PLANTS AT APPROXIMATELY FIFTY PERCENT; A SEED

CRUSHING TARIFF INCREASE OF SEVEN PERCENT WITHOUT NOTIFICATION OR DISCUSSION WITH INDUSTRY; AND A WTO-INCONSISTENT POLICY WITH REGARDS TO RICE QUOTAS. HE NOTED THAT THE RICE ISSUE WOULD BE TAKEN UP DURING THIS MONTH'S ROUND OF WTO AGRICULTURE COMMITTEE MEETINGS.

118. (SBU) THE DAS ASKED THE UNDER SECRETARY ABOUT TURKEY'S PLANS WITH REGARDS TO ACCEPTING GMO PRODUCTS.

119. (SBU) UNDER SECRETARY CAGIL ADMITTED THAT HIS MINISTRY FACED DIFFICULT DECISIONS BECAUSE IT HAD TO BALANCE TRADE INTERESTS WITH DOMESTIC PRODUCERS' INTERESTS. HE FELT CONFIDENT THAT THE ISSUES COULD BE RESOLVED THROUGH AN OPEN DIALOGUE WITH THE AFFECTED COMPANIES.

120. (SBU) ON THE DISTILLED SPIRITS ISSUE, HE NOTED THAT A LAW WOULD COME INTO EFFECT OVER THE NEXT MONTH THAT WOULD CREATE THE CODEX COMMISSION AND BEGIN HARMONIZATION WITH EU AGRICULTURE DIRECTIVES - WHICH WOULD ADDRESS MOST OF THESE CONCERNS. ON THE SEED CRUSHING ISSUE HE DEFERRED TO THE EXPERTS, BUT SAID HE BELIEVED THE TARIFF WOULD BE TEMPORARY AND OFFERED TO INTERVENE WITH THE COMPANY TO CLEAR UP ANDY UNCERTAINTIES.

121. (SBU) ON THE RICE QUOTA ISSUE, THE UNDER SECRETARY CONFIRMED THAT THE PRACTICE WAS TO PROTECT LOCAL PRODUCERS AND HE COMPLAINED THAT THE PRICE OF RICE IN TURKEY WAS EXTREMELY HIGH. THE REQUIREMENTS TURKEY HAS IMPLEMENTED SERVE TO ENSURE THE PURCHASE OF TURKISH RICE. HE CLAIMED THERE WAS NO IMPORT BAN AND THAT THE MINISTRY WAS FORCED TO TAKE THIS STEP BECAUSE IT WAS DIRECTED TO DO SO BY MINISTERIAL DECREE.

122. (SBU) IN RESPONSE TO THE QUESTION REGARDING GMOS, THE UNDER SECRETARY SAID THAT TURKEY WOULD FOLLOW THE EU'S LEAD. HE PERSONALLY FELT THE PRODUCTS SHOULD BE ALLOWED INTO THE COUNTRY IF THEY ARE PROPERLY LABELED.

123. (SBU) MEETING AT UNDERSECRETARIAT FOR EU AFFAIRS WITH DIRECTOR CAN: THE DAS RAISED THREE ISSUES WITH THE DIRECTOR THAT RELATE DIRECTLY TO TURKEY'S HARMONIZATION WITH EU DIRECTIVES. THE THREE ISSUES WERE: INCONSISTENT CE-MARK ENFORCEMENT; LACK OF DATA EXCLUSIVITY FOR PHARMACEUTICAL TEST DATA; AND GOT IMPLEMENTATION OF SUPERIOR ALCOHOL STANDARDS.

124. (SBU) DIRECTOR CAN NOTED THAT THE UNDERSECRETARIAT WAS HAVING DIFFICULTIES IN EDUCATING LINE MINISTRIES ON EU HARMONIZATION. SHE WAS VERY FAMILIAR WITH THE DATA EXCLUSIVITY ISSUE AND TOLD THE DAS THAT ONE OF HER COLLEAGUES WAS WATCHING THE ISSUE VERY CLOSELY (AN EU TRADE BARRIER REPORT ON TURKEY THAT HIGHLIGHTS DEFICIENCIES WITH THE PROTECTION OF DATA EXCLUSIVITY IS EXPECTED TO COME OUT IN OCTOBER). ON THE DISTILLED SPIRITS ISSUE, THE DIRECTOR CONFIRMED WHAT WE HEARD AT THE MINISTRY OF AGRICULTURE WITH REGARD TO THE CREATION OF THE CODEX COMMISSION WITHIN THE MONTH. SHE ALSO CONFIRMED THAT A DRAFT LAW ON DISTILLED SPIRITS HAD ALREADY BEEN DRAFTED AND COULD BE IMPLEMENTED QUICKLY. FINALLY, ON THE CE-MARK ISSUE SHE EXPRESSED FRUSTRATION OVER GETTING THE LINE MINISTRIES TO UNDERSTAND THEIR DUTIES AND PROMISED TO GET AN UPDATE TO THE DAS ON THE MATTER WITHIN THE NEXT COUPLE OF WEEKS.

125. (SBU) MEETING AND MINISTRY OF ENERGY AND NATURAL RESOURCES WITH UNDER SECRETARY DEMIRBILEK: DAS STEWART RAISED USG CONCERNS OVER THE GOT'S INABILITY TO MOVE FORWARD ON BOT PROJECTS WITH SIGNED CONTRACTS. WHILE THE USG UNDERSTANDS THE DIFFICULTY OF MOVING FORWARD ON ALL THE PROJECTS, THE COMPANIES ARE FRUSTRATED THAT THEY HAVE NOT RECEIVED STATUS UPDATES. THE DAS ASKED THE MINISTRY TO WORK WITH COMPANIES INTERESTED IN THE NINE PROTOCOL HYDROPOWER PROJECTS. HE URGED TURKEY TO RESOLVE THE EXCHANGE RATE GUARANTEE ISSUE AND ADDRESS A PROBLEM TOREADOR RESOURCES FACES WITH OBTAINING A BLACK SEA LICENSE - WHICH THE COMPANY CLAIMS WAS GIVEN TO TPAO CONTRARY TO THE PETROLEUM LAW OF 1954 (THIS MATTER IS CURRENTLY WORKING ITS WAY THROUGH THE TURKISH JUDICIAL SYSTEM).

126. (SBU) THE UNDER SECRETARY ASSURED US THAT A RESOLUTION TO THE BOT PROBLEM WOULD BE REACHED AND THAT IT WOULD FALL WITHIN THE PARAMETERS OF THE SIGNED CONTRACTS. HE ALSO APPEARED NOT TO BE CONCERNED OVER PENDING LAW SUITS. ON THE EXCHANGE RATE ISSUE, HE TOLD US THAT THE GOT WOULD RESOLVE THE PROBLEM BY ALLOWING INVESTORS TO REPATRIATE PROFITS, UP TO THE AMOUNT OF THE INITIAL INVESTMENT, FREE OF TAXES - A SOLUTION HE CLAIMS WAS REACHED WITH INDUSTRY INPUT. ON THE LICENSE ISSUE, HE CLAIMS THAT EVERYTHING THE MINISTRY DID WAS LEGAL. HE ALLEGES THAT THE PETROLEUM LAW OF 1954 HAS AN EXEMPTION FOR OFF-SHORE DRILLING WHICH ALLOWS TPAO TO RECEIVE THE LICENSE.

127. (SBU) MEETING AT THE MINISTRY OF JUSTICE WITH UNDER

SECRETARY KASIRGA: DAS STEWART CONGRATULATED THE UNDER SECRETARY FOR HIS MINISTRY'S ROLE IN PROMOTING IP PROTECTION AND WORKING WITH THE U.S. DEPARTMENT OF JUSTICE AND PATENT AND TRADEMARK OFFICE ON THE SEPTEMBER IP SEMINAR. THE DAS RAISED USG CONCERNS OVER HIGH PIRACY LEVELS IN TURKEY, THE LACK OF DATA EXCLUSIVITY, AND THE FAILURE OF SOME TURKISH COURTS TO ENFORCE INTERNATIONAL ARBITRAL AWARDS.

128. (SBU) THE UNDER SECRETARY REMAINS COMMITTED TO ENFORCE IP LAWS AND NOTED THE INTEREST ON THE PART OF HIS MINISTRY TO CONTINUE TO EDUCATE JUDGES AND PROSECUTORS. HE HIGHLIGHTED THE FACT THAT TURKEY HAS SEVEN SPECIALIZED IP COURTS WHOSE JUDGES WERE REQUIRED TO STUDY IP LAWS IN EUROPE FOR ONE YEAR. HE WAS NOT FAMILIAR WITH THE DATA EXCLUSIVITY ISSUE AND DIRECTED US TO THE MINISTRY OF HEALTH.

129. (SBU) ON THE ARBITRATION ISSUE, HE WAS SURPRISED TO HEAR ABOUT THE PROBLEM. HE ASKED THAT WE SEND HIM A PAPER DETAILING OUR COMPLAINT SO THAT HE CAN ASSIGN LAWYERS ON HIS STAFF TO INVESTIGATE. HE ASKED THAT WE NAME THE COURTS RENDERING THESE JUDGEMENTS AND PROMISED TO GET BACK TO US WITH HIS FINDINGS.

130. (U) DAS ERIC STEWART HAS CLEARED THIS CABLE.

EDELMAN